

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SHERRY HUNTER, on behalf of herself, all others similarly situated and the general public,

Plaintiffs,

V.

NATURE'S WAY PRODUCTS, LCC, and
SCHWABE NORTH AMERICA, INC.,

Defendant.

Case No: 3:16-cv-00532-WQH-AGS

ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT

Hon. William Q. Hayes

1 WHEREAS, the above-entitled action is pending before this Court (the “Action”);

2 WHEREAS, Plaintiff Sherry Hunter has moved, pursuant to Federal Rule of Civil
3 Procedure 23(e), for an order approving the Settlement of this Action in accordance with the
4 Class Action Settlement Agreement (“Settlement Agreement”) attached as Exhibit 1 to the
5 Declaration of Jack Fitzgerald in Support of Plaintiffs’ Motion for Preliminary Approval of
6 Class Settlement (the “Motion”), which Settlement Agreement sets forth the terms and
7 conditions for a proposed classwide settlement of the Action;

8 WHEREAS, the Court, has read and considered the Settlement Agreement and
9 considered Plaintiff’s Motion; and

10 WHEREAS, all capitalized terms herein have the same meanings as set forth in the
11 Settlement Agreement.

12 **NOW, THEREFORE, IT IS HEREBY FOUND AND ORDERED:**

13 1. The Court has jurisdiction over the subject matter of the Action and over all
14 Parties to the Action, including all members of the Settlement Class.

15 2. The Court finds on a preliminary basis that the Settlement as set forth in the
16 Settlement Agreement falls within the range of reasonableness. Therefore, the Court
17 preliminarily approves the Settlement Agreement and the Settlement set forth therein, as
18 fair, reasonable, and adequate to the Class.

19 3. The Court conditionally certifies, for settlement purposes only, a Class defined
20 as all persons in the United States who purchased, for personal or household use, Nature’s
21 Way Extra semi-solid Extra Virgin Coconut Oil in 16-ounce or 32-ounce jars and/or
22 Nature’s Way Liquid Coconut Cooking Oil in 10-ounce or 20-ounce jars.

23 4. The Court finds, for settlement purposes only, that class certification under
24 Federal Rule of Civil Procedure 23(b)(3) is appropriate in the settlement context because (a)
25 the Settlement Class Members are so numerous that joinder of all Settlement Class
26 Members is impracticable; (b) there are questions of law and fact common to the Settlement
27 Class which predominate over any individual questions; (c) the claims of the plaintiffs and

1 proposed Class Representatives are typical of the claims of the Settlement Class; (d) the
2 plaintiffs and proposed Class Representatives and their counsel will fairly and adequately
3 represent and protect the interests of the Settlement Class Members; (e) questions of law or
4 fact common to the Settlement Class Members predominate over any questions affecting
5 only individual the Settlement Class Members; and (f) a class action is superior to other
6 available methods for the fair and efficient adjudication of the controversy.

7 5. The Court appoints Plaintiff Sherry Hunter as Class Representative.

8 6. The Court appoints The Law Office of Paul K. Joseph, PC, and The Law
9 Office of Jack Fitzgerald, PC as Class Counsel.

10 7. The Court finds that, subject to the Final Approval hearing, the proposed
11 Settlement Agreement is fair, reasonable, adequate, and in the best interests of the
12 Settlement Class. The Court further finds that the Settlement Agreement substantially
13 fulfills the purposes and objectives of the class action and provides beneficial relief to the
14 Settlement Class. The Court also finds that the Settlement Agreement: (a) is the result of
15 serious, informed, non-collusive arms'-length negotiations, involving experienced counsel
16 familiar with the legal and factual issues of this case and made with the assistance and
17 supervision of the Hon. Andrew G. Schopler (b) meets all applicable requirements of law,
18 including Federal Rule of Civil Procedure 23, and the Class Action Fairness Act ("CAFA"),
19 28 U.S.C. § 1715.

20 8. The Court hereby approves RG2 to act as Claims Administrator, and approves
21 the form and content of the Class Notice in the form attached to the Settlement Agreement
22 as Exhibit A (Long Form Notice). The Court finds that dissemination of the Class Notice as
23 proposed in the Settlement Agreement meets the requirements of Federal Rule of Civil
24 Procedure 23(c)(2), and due process, and further constitutes the best notice practicable
25 under the circumstances. Accordingly, the Court hereby approves the Notice Plan as set
26 forth in Section V of the Settlement Agreement and in the Declaration of William W.
27 Wickersham, attached to the Settlement Agreement as Exhibit B.

9. The Court adopts the schedule proposed by Plaintiff, as follows:

Event	Day	Approximate Weeks After Preliminary Approval
Date Court grants preliminary approval	0	-
Deadline to commence direct notice	7	1 week
Deadline to complete direct notice	30	4 weeks
Deadline to make a claim or opt out	45	6 weeks
Deadline for plaintiffs to file Motions for Final Approval, Attorneys' Fees, and Incentive Awards	60	8 weeks
Deadline for objections	70	9 weeks
Deadline for replies to objections ¹	75	10 weeks
Final approval hearing date	84	12 weeks

10. A hearing (the “Final Approval Hearing”) has been reserved on _____, 2019, to be held before this Court to determine whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate to the Settlement Class and should be finally approved by the Court; whether a Judgment as provided in the Settlement Agreement should be entered; and to determine any amount of fees, costs, and expenses that should be awarded to Class Counsel and any award to the Plaintiffs for their representation of, or service on behalf of, the Settlement Class.

11. The Court reserves the right to adjourn the date of the Final Approval Hearing without further notice to the members of the Settlement Class, and retains jurisdiction to consider all further applications arising out of or connected with the proposed settlement. The Court may approve the settlement, with such modifications as may be agreed to by the settling Parties, if appropriate, without further notice to the Settlement Class.

¹ The Parties may, but are not required to respond to any objections.

1 12. All discovery and proceedings in this Action are stayed until further order of
2 this Court, except as may be necessary to implement the settlement or comply with the
3 terms of the Settlement Agreement.

4 13. By entering this order, the Court does not make any determination as to the
5 merits of this case. Preliminary approval of the Settlement Agreement is not a finding or
6 admission of liability by Defendants.

7 14. The Court retains jurisdiction over the Action to consider all further matters
8 arising out of or connected with the Settlement Agreement and the settlement described
9 therein.

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11 **IT IS SO ORDERED.**

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13 Dated: _____, 2019

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15 Hon. William Q. Hayes
16 United States District Judge
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